



9111-14

DEPARTMENT OF HOMELAND SECURITY

8 CFR Parts 236, 238, 239, 240, 241, and 287

[CBP Dec. 16-14]

Technical Corrections Relating to Issuance of Notices to Appear, Warrants of Removal, Exercise of Power by Immigration Officers, and Standards for Enforcement Activities

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Final rule; technical amendment.

SUMMARY: The Department of Homeland Security (DHS) is amending its regulations to update various provisions that list specific immigration officials who are authorized to perform various immigration functions, including the issuance of notices to appear, warrants of removal, and arrest warrants. The lists are outdated and do not reflect the current DHS organizational structure. DHS is updating the lists with the specific officials who are currently authorized to perform these various functions. DHS is also making some technical corrections to update nomenclature and outdated references in the affected provisions.

DATES: Effective [INSERT DATE OF PUBLICATION IN THE **FEDERAL REGISTER**].

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SUPPLEMENTARY INFORMATION:

I. BACKGROUND

The Department of Homeland Security (DHS) was established on January 24, 2003, pursuant to the Homeland Security Act of 2002 (HSA), Pub. L. 107-296, 116 Stat. 2135, codified at 6 U.S.C. 101, et seq.

Section 441 of the HSA transferred from the Commissioner of Immigration and Naturalization Service to DHS all border security functions, personnel, assets, and liabilities. See 6 U.S.C. 251. Pursuant to section 1502 of the HSA, on November 25, 2002, the President submitted to Congress a reorganization plan. See 6 U.S.C. 542. On January 30, 2003, the President submitted a modified reorganization plan, which provided that the Customs Service, now, U.S. Customs and Border Protection (CBP), would contain, among other things, the resources and missions relating to borders and ports of entry of the Customs Service and the Immigration and Naturalization Service. This modified reorganization plan also provided that the Bureau of Border Security, now, the U.S. Immigration and Customs Enforcement (ICE), would contain, among other things, the detention and removal program, the intelligence program, and the investigations program of the Immigration and Naturalization Service.

Additionally, section 451 of the HSA established the Bureau of Citizenship and Immigration Services, now, the U.S. Citizenship and Immigration Services (USCIS), and

transferred to it from the Commissioner of the former Immigration and Naturalization Service all adjudications and benefit programs. See 6 U.S.C. 271.

Under sections 1101 and 1102 of the HSA, the Department of Justice, Executive Office for Immigration Review (EOIR) retained its functions relating to the immigration and naturalization of aliens. See 6 U.S.C. 521.

On June 13, 2003 and November 4, 2005, DHS published two final rules in the **Federal Register** (68 FR 35273 and 70 FR 67087) to conform the text of title 8, Code of Federal Regulations (CFR) parts 236, 239, 241, and 287 to the organizational structures established by the HSA and reorganization plans. Subsequently, the DHS organizational structure has evolved, and this rule revises various sections in these parts to reflect DHS's current structure. The organizational structure described in 8 CFR parts 238, 240, 241, and 287 predates the creation of DHS, and this rule updates various sections in these parts. In addition, DHS is making some technical corrections to update nomenclature and outdated references in the affected provisions. We summarize below the provisions in title 8 CFR that we are updating.

A. Apprehension, Custody, and Detention

Title 8, CFR part 236, subpart A (8 CFR part 236, subpart A) describes the procedures for apprehending, detaining, and removing aliens under the Immigration and Nationality Act. Specifically, 8 CFR 236.1 refers to lists of immigration officials in § 287.5(e)(2) and (e)(3) of the chapter who are authorized to issue a warrant of arrest or to serve a warrant of arrest and lists officials authorized to make custody decisions.

B. Expedited Removal Proceedings

Title 8, CFR part 238 (8 CFR part 238) describes the procedures for expedited removal of aggravated felons under the Immigration and Nationality Act. Specifically, 8 CFR 238.1 defines a “deciding Service officer” and “issuing Service officer”. It also refers to a list of immigration officials in § 239.1 of the chapter who are authorized to issue notices to appear and refers to a list of immigration officials in § 287.5(e)(2) of the chapter who are authorized to issue warrants of arrest.

C. Notice to Appear

Title 8, CFR part 239 (8 CFR part 239) describes the procedures for the initiation of removal proceedings under the Immigration and Nationality Act. Specifically, 8 CFR 239.1 provides that any immigration officer, or supervisor thereof, performing an inspection of an arriving alien at a port-of-entry may issue a notice to appear to such alien, and lists the additional officers who are authorized to issue notices to appear.

D. Voluntary Departure – Authority of the Service

Title 8, CFR part 240, subpart C (8 CFR part 240, subpart C) describes procedures and conditions regarding the granting of voluntary departures from the United States. Specifically, 8 CFR 240.25 lists the officers who are authorized to permit aliens to depart voluntarily.

E. Warrant of Removal

Title 8, CFR part 241, subpart A (8 CFR part 241, subpart A) describes immigration post-hearing detention and removal procedures. Specifically, 8 CFR 241.2 lists the immigration officials who are authorized to issue warrants of removal.

F. Exercise of Power by Immigration Officers

Title 8, CFR part 287 (8 CFR part 287) describes the powers and duties of field officers. Specifically, 8 CFR 287.5 addresses the power and duties of immigration officers, including the power to interrogate and administer oaths, patrol the border, arrest, conduct searches, execute and issue warrants, and carry firearms, and lists the officials who are authorized to perform these functions. Also, 8 CFR 287.8 describes the standards for enforcement activities conducted by immigration officers.

G. Regulatory Amendment

The lists of immigration officials in 8 CFR 236.1, 238.1, 239.1, 240.25, 241.2, 287.5, and 287.8 have not been updated to reflect the current organizational structure of DHS. As such, these regulations include position titles that no longer exist in the DHS organization and do not include position titles that were established after the creation of DHS. Therefore, it is necessary to amend these regulations to authorize the appropriate officials within DHS to perform the listed functions and to remove outdated references to former position titles. To accurately reflect the current DHS organizational structure, this final rule amends 8 CFR 236.1, 238.1, 239.1, 240.25, 241.2, 287.5, and 287.8 by removing the outdated list of personnel authorized to perform various immigration functions, such as issuing notices to appear, warrants of removal, and arrest warrants and by adding language that authorizes the appropriate DHS officials to perform these functions.

DHS is also making several additional technical corrections to update outdated references in these sections. Specifically, DHS is updating 8 CFR 236.1 and 238.1 to replace several outdated references to sections in 8 CFR part 3 with sections in 8 CFR

part 1003. As provided in 8 CFR 3.0, the regulations of the Executive Office for Immigration Review (EOIR) relating to the adjudication of immigration matters before immigration judges and the Board of Immigration Appeals are now located in 8 CFR chapter V, part 1003, rather than in part 3. In a final rule published in the **Federal Register** on February 28, 2003 (68 FR 9824), the Department of Justice moved the provisions to reflect the division of authority between DHS and EOIR after the enactment of the HSA. DHS is also removing the obsolete references to the title “Commissioner” and “Assistant Secretary for ICE” and replacing them with the current title “Assistant Secretary/Director of ICE” in 8 CFR 236.1, 287.5, and 287.8. These changes will reflect the current DHS structure.

II. STATUTORY AND REGULATORY REQUIREMENTS

A. Inapplicability of Public Notice and Delayed Effective Date Requirements

Under the Administrative Procedure Act (5 U.S.C. 553(b)), rulemakings generally require prior notice and comment, subject to specified exceptions. As provided in 5 U.S.C. 553(b)(A) and (B), this procedure does not apply to rules of agency organization, procedure, practice; or when the agency for good cause finds that notice and comment are impracticable, unnecessary, or contrary to the public interest. This final rule amends the regulations to reflect the correct position titles for those officials who are authorized to issue notices to appear, warrants of removal, arrest warrants, and to perform various additional immigration functions and makes some technical corrections to update nomenclature and outdated references in the affected provisions. DHS finds that this is a rule of agency organization, procedure, or practice, which is not subject to notice and comment rulemaking. DHS also finds that good cause exists to issue the rule without

prior notice and comment and that this procedure is not necessary because the rule has no substantive impact, is technical in nature, and it relates to management, organization, procedure, and practice. For the same reasons, pursuant to 5 U.S.C. 553(d)(3), a delayed effective date is not required.

B. The Regulatory Flexibility Act and Executive Orders 12866 and 13563

Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) do not apply. This amendment does not meet the criteria for a “significant regulatory action” as specified in Executive Order 12866, as supplemented by Executive Order 13563.

List of Subjects

8 CFR Parts 236, 239, and 241

Administrative practice and procedure, Aliens, Immigration.

8 CFR Parts 238 and 240

Administrative practice and procedure, Aliens.

8 CFR Part 287

Immigration, Law enforcement officers.

AMENDMENTS TO REGULATIONS

For the reasons set forth above, parts 236, 238, 239, 240, 241, and 287 of title 8 of the Code of Federal Regulations (8 CFR parts 236, 238, 239, 240, 241, and 287) are amended as set forth below.

PART 236 — APPREHENSION AND DETENTION OF INADMISSIBLE AND DEPORTABLE ALIENS; REMOVAL OF ALIENS; REMOVAL OF ALIENS ORDERED REMOVED

1. The authority citation for part 236 continues to read as follows:

Authority: 5 U.S.C. 301, 552, 552a; 8 U.S.C. 1103, 1182, 1224, 1225, 1226, 1227, 1231, 1362; 18 U.S.C. 4002, 4013(c)(4); 8 CFR part 2.

§ 236.1 [Amended]

2. Amend § 236.1 as follows:

- a. In paragraph (c)(7), remove the word “Commissioner” and add in its place “Assistant Secretary/Director of ICE”;
- b. In paragraph (c)(10), remove the reference to “§ 3.19” and add in its place “§ 1003.19”;
- c. In paragraph (c)(11), remove the reference to “§ 3.19(h)” and add in its place “§ 1003.19(h)”;
- d. In paragraph (d)(1), remove the reference to “§ 3.19” and add in its place “§ 1003.19”;
- e. In paragraph (d)(3)(i), remove the reference to “§ 3.38” and add in its place “§ 1003.38”;
- f. In paragraph (d)(4), remove the reference to “§ 3.19(i)” and add in its place “§ 1003.19(i)”.
- g. In paragraph (f), remove the reference to “§ 3.19(g)” and add in its place “§ 1003.19(g)”.

PART 238 — EXPEDITED REMOVAL OF AGGRAVATED FELONS

3. The authority citation for part 238 continues to read as follows:

Authority: 8 U.S.C. 1228; 8 CFR part 2.

§ 238.1 [Amended]

4. In § 238.1 amend paragraph (b)(1)(iii) by removing the reference to “§ 3.41” and adding in its place “§ 1003.41”.

PART 239 — GENERAL PROVISIONS

5. The authority citation for part 239 continues to read as follows:

Authority: 8 U.S.C. 1103, 1221, 1229; Homeland Security Act of 2002, Public Law 107-296; 8 CFR part 2.

6. Amend § 239.1 by revising paragraphs (a)(1) through (a)(41) and adding paragraphs (a)(42) through (a)(46). The revisions and additions read as follows:

§ 239.1 Notice to appear.

(a) * * *

- (1) District directors (except foreign);
- (2) Deputy district directors (except foreign);
- (3) Chief patrol agents;
- (4) Deputy chief patrol agents;
- (5) Division chiefs;
- (6) Assistant chief patrol agents;
- (7) Patrol agents in charge;
- (8) Deputy patrol agents in charge;
- (9) Border patrol watch commanders;
- (10) Special operations supervisors;
- (11) Supervisory border patrol agents;
- (12) Directors of air operations;
- (13) Directors of marine operations;

- (14) Supervisory air and marine interdiction agents;
- (15) Service center directors;
- (16) Deputy service center directors;
- (17) Assistant service center directors for examinations;
- (18) Supervisory immigration services officers;
- (19) Supervisory immigration officers;
- (20) Supervisory asylum officers;
- (21) Officers in charge (except foreign);
- (22) Assistant officers in charge (except foreign);
- (23) Special agents in charge;
- (24) Deputy special agents in charge;
- (25) Associate special agents in charge;
- (26) Assistant special agents in charge;
- (27) Resident agents in charge;
- (28) Supervisory special agents;
- (29) Directors of investigations;
- (30) District directors for interior enforcement;
- (31) Deputy or assistant district directors for interior enforcement;
- (32) Director of enforcement and removal operations;
- (33) Field office directors;
- (34) Deputy field office directors;
- (35) Supervisory deportation officers;
- (36) Supervisory detention and deportation officers;

(37) Directors or officers in charge of detention facilities;

(38) Directors of field operations;

(39) Assistant directors of field operations;

(40) Port directors;

(41) Assistant port directors;

(42) Field operations watch commanders;

(43) Field operations chiefs;

(44) Unit Chief, Law Enforcement Support Center;

(45) Section Chief, Law Enforcement Support Center; or

(46) Other duly authorized officers or employees of the Department of Homeland Security or of the United States who are delegated the authority as provided by 8 CFR 2.1 to issue notices to appear, and who have successfully completed any required immigration law enforcement training.

* * * * *

PART 240 — GENERAL PROVISIONS

7. The authority citation for part 240 continues to read as follows:

Authority: 8 U.S.C. 1103, 1182, 1186a, 1224, 1225, 1226, 1227, 1251, 1252 note, 1252a, 1252b, 1362; secs. 202 and 203, Pub. L. 105-100 (111 Stat. 2160, 2193); sec. 902, Pub. L. 105-277 (112 Stat. 2681); 8 CFR part 2.

§ 240.25 [Amended]

8. Amend § 240.25 paragraph (a) by removing the words “Deputy Executive Associate Commissioner for Detention and Removal” and adding in their place “Deputy Executive Associate Director for Enforcement and Removal Operations”.

PART 241 — APPREHENSION AND DETENTION OF ALIENS ORDERED REMOVED

9. The authority citation for part 241 continues to read as follows:

Authority: 5 U.S.C. 301, 552, 552a; 8 U.S.C. 1103, 1182, 1223, 1224, 1225, 1226, 1227, 1228, 1231, 1251, 1253, 1255, 1330, 1362; 18 U.S.C. 4002, 4013(c)(4); Pub. L. 107-296, 116 Stat. 2135 (6 U.S.C. 101, et seq.); 8 CFR part 2.

10. Amend § 241.2:

- a. By revising paragraph (a)(1); and
- b. In paragraph (a)(2), by removing the reference to “(xxv)” and adding in its place “(xxxi)”.

The revision reads as follows:

§ 241.2 Warrant of removal.

(a) Issuance of a warrant of removal — (1) In general. A Form I-205, Warrant of Removal, based on the final administrative removal order in the alien’s case will be issued by any of the following immigration officials:

- (i) Director, Enforcement and Removal Operations;
- (ii) Deputy Assistant Director, Field Operations;
- (iii) Field Office Directors;
- (iv) Deputy Field Office Directors;
- (v) Assistant Field Office Directors;
- (vi) Officers in Charge;
- (vii) Special Agents in Charge;
- (viii) Deputy Special Agents in Charge;

- (ix) Associate Special Agents in Charge;
- (x) Assistant Special Agents in Charge;
- (xi) Group Supervisors;
- (xii) Resident Agents in Charge;
- (xiii) District Field Officers;
- (xiv) Chief Patrol Agents;
- (xv) Deputy Chief Patrol Agents;
- (xvi) Division Chiefs;
- (xvii) Assistant Chief Patrol Agents;
- (xviii) Patrol Agents in Charge;
- (xix) Deputy Patrol Agents in Charge;
- (xx) Watch Commanders, Border Patrol;
- (xxi) Director of Air Operations;
- (xxii) Director of Marine Operations;
- (xxiii) Supervisory Air and Marine Interdiction Agents;
- (xxiv) Unit Chief, Law Enforcement Support Center;
- (xxv) Section Chief, Law Enforcement Support Center;
- (xxvi) Port Directors;
- (xxvii) Assistant Port Directors;
- (xxviii) Directors, Field Operations;
- (xxix) Assistant Directors, Field Operations;
- (xxx) Watch Commanders, Field Operations;
- (xxxi) Chiefs, Field Operations; and

(xxxii) Other duly authorized officers or employees of the Department of Homeland Security or the United States who are delegated the authority as provided in 8 CFR 2.1 to issue Warrants of Removal, and who have successfully completed any required immigration law enforcement training.

* * * * *

PART 287 — GENERAL PROVISIONS

11. The authority citation for part 287 continues to read as follows:

Authority: 8 U.S.C. 1103, 1182, 1225, 1226, 1251, 1252, 1357; Homeland Security Act of 2002, Pub. L. 107-296 (6 U.S.C. 1, et seq.); 8 CFR part 2.

12. Amend § 287.5 by:

- a. Revising paragraphs (b)(1) through (6);
- b. Revising paragraphs (c)(1)(i) through (viii);
- c. Revising paragraphs (c)(2)(i) through (viii);
- d. Revising paragraphs (c)(3)(i) through (vii);
- e. Revising paragraphs (c)(4)(ii)(A) through (G);
- f. Revising paragraph (c)(4)(iii);
- g. Revising paragraphs (c)(5)(ii)(A) through (G);
- h. Revising paragraphs (d)(1) through (8);
- i. Revising paragraphs (e)(1)(i) through (vi);
- j. Adding paragraphs (e)(1)(vii) through (viii),
- k. Revising paragraphs (e)(2)(i) through (l);
- l. Adding paragraphs (e)(2)(li) through (liii);
- m. Revising paragraphs (e)(3)(i) through (viii);

- n. Revising paragraphs (e)(4)(i) through (vi);
- o. Adding paragraphs (e)(4)(vii) through (viii); and
- p. Revising paragraphs (f)(1) through (8).

The revisions and additions read as follows:

§ 287.5 Exercise of power by immigration officers.

* * * *

(b) * * *

(1) Border patrol agents;

(2) Air and marine agents;

(3) Special agents;

(4) CBP officers;

(5) Supervisory and managerial personnel who are responsible for supervising the activities of those officers listed in this paragraph; and

(6) Immigration officers who need the authority to patrol the border under section 287(a)(3) of the Act in order to effectively accomplish their individual missions and who are designated, individually or as a class, by the Commissioner of CBP, or the Assistant Secretary/Director of ICE.

(c) * * *

(1) * * *

(i) Border patrol agents;

(ii) Air and marine agents;

(iii) Special agents;

(iv) Deportation officers;

(v) CBP officers;

(vi) Immigration enforcement agents;

(vii) Supervisory and managerial personnel who are responsible for supervising the activities of those officers listed in this paragraph; and

(viii) Immigration officers who need the authority to arrest aliens under section 287(a)(2) of the Act in order to effectively accomplish their individual missions and who are designated, individually or as a class, by the Commissioner of CBP, the Assistant Secretary/Director of ICE, or the Director of the USCIS.

(2) * * *

(i) Border patrol agents;

(ii) Air and marine agents;

(iii) Special agents;

(iv) Deportation officers;

(v) CBP officers;

(vi) Immigration enforcement agents;

(vii) Supervisory and managerial personnel who are responsible for supervising the activities of those officers listed in this paragraph; and

(viii) Immigration officers who need the authority to arrest persons under section 287(a)(4) of the Act in order to effectively accomplish their individual missions and who are designated, individually or as a class, by the Commissioner of CBP, the Assistant Secretary/Director of ICE, or the Director of the USCIS.

(3) * * *

(i) Border patrol agents;

- (ii) Air and marine agents;
- (iii) Special agents;
- (iv) Deportation officers;
- (v) CBP officers;
- (vi) Supervisory and managerial personnel who are responsible for supervising the activities of those officers listed in this paragraph; and
- (vii) Immigration officers who need the authority to arrest persons under section 287(a)(5)(A) of the Act in order to effectively accomplish their individual missions and who are designated, individually or as a class, by the Commissioner of CBP, or the Assistant Secretary/Director of ICE.

(4) * * *

(ii) * * *

- (A) Border patrol agents;
- (B) Air and marine agents;
- (C) Special agents;
- (D) Deportation officers;
- (E) CBP officers;
- (F) Supervisory and managerial personnel who are responsible for supervising the activities of those officers listed in this paragraph; and
- (G) Immigration officers who need the authority to arrest persons under section 287(a)(5)(B) of the Act in order to effectively accomplish their individual missions and who are designated, individually or as a class, by the Commissioner of CBP or the Assistant Secretary/Director of ICE.

(iii) Notwithstanding the authorization and designation set forth in paragraph (c)(4)(ii) of this section, no immigration officer is authorized to make an arrest for any felony under the authority of section 287(a)(5)(B) of the Act until such time as he or she has been certified as successfully completing a training course encompassing such arrests and the standards for enforcement activities are defined in 8 CFR 287.8. Such certification will be valid for the duration of the immigration officer's continuous employment, unless it is suspended or revoked by the Commissioner of CBP or the Assistant Secretary/Director of ICE, or their respective designees, for just cause.

(5) * * *

(ii) * * *

(A) Border patrol agents;

(B) Air and marine agents;

(C) Special agents;

(D) Deportation officers;

(E) CBP officers;

(F) Supervisory and managerial personnel who are responsible for supervising the activities of those officers listed in this paragraph; and

(G) Immigration officers who need the authority to arrest persons under section 274(a) of the Act in order to effectively accomplish their individual missions and who are designated, individually or as a class, by the Commissioner of CBP or the Assistant Secretary/Director of ICE.

* * *

(d) * * *

- (1) Border patrol agents;
- (2) Air and marine agents;
- (3) Special agents;
- (4) Deportation officers;
- (5) CBP officers;
- (6) Immigration enforcement agents;
- (7) Supervisory and managerial personnel who are responsible for supervising the activities of those officers listed in this paragraph; and
- (8) Immigration officers who need the authority to conduct searches under section 287(c) of the Act in order to effectively accomplish their individual missions and who are designated, individually or as a class, by the Commissioner of CBP, the Assistant Secretary/Director of ICE, or the Director of USCIS.

(e) * * *

(1) * * *

- (i) Border patrol agents;
- (ii) Air and marine agents;
- (iii) CBP officers;
- (iv) Special agents;
- (v) Deportation officers;
- (vi) Immigration enforcement agents;
- (vii) Supervisory and managerial personnel who are responsible for supervising the activities of those officers listed in this paragraph; and

(viii) Immigration officers who need the authority to execute search warrants under section 287(a) of the Act in order to effectively accomplish their individual missions and who are designated, individually or as a class, by the Commissioner of CBP or the Assistant Secretary/Director of ICE.

(2) * * *

- (i) District directors (except foreign);
- (ii) Deputy district directors (except foreign);
- (iii) Assistant district directors for investigations;
- (iv) Deputy assistant district directors for investigations;
- (v) Assistant district directors for deportation;
- (vi) Deputy assistant district directors for deportation;
- (vii) Assistant district directors for examinations;
- (viii) Deputy assistant district directors for examinations;
- (ix) Officers in charge (except foreign);
- (x) Assistant officers in charge (except foreign);
- (xi) Chief patrol agents;
- (xii) Deputy chief patrol agents;
- (xiii) Division chiefs;
- (xiv) Assistant chief patrol agents;
- (xv) Patrol agents in charge;
- (xvi) Deputy patrol agents in charge;
- (xvii) Border Patrol watch commanders;
- (xviii) Special operations supervisors;

- (xix) Supervisory border patrol agents;
- (xx) Directors of air operations;
- (xxi) Directors of marine operations;
- (xxii) Supervisory air and marine interdiction agents;
- (xxiii) Executive Associate Director of Homeland Security Investigations;
- (xxiv) Institutional Hearing Program directors;
- (xxv) Director, Field Operations;
- (xxvi) Assistant Director, Field Operations;
- (xxvii) Port directors;
- (xxviii) Assistant port directors;
- (xxix) Field operations watch commanders;
- (xxx) Field operations chiefs;
- (xxxi) Supervisory deportation officers;
- (xxxii) Supervisory detention and deportation officers;
- (xxxiii) Group Supervisors;
- (xxxiv) Director, Office of Detention and Removal Operations;
- (xxxv) Special Agents in Charge;
- (xxxvi) Deputy Special Agents in Charge;
- (xxxvii) Associate Special Agents in Charge;
- (xxxviii) Assistant Special Agents in Charge;
- (xxxix) Field Office Directors;
- (xl) Deputy Field Office Directors;
- (xli) District Field Officers;

- (xlii) Supervisory immigration services officers;
- (xliii) Supervisory immigration officers;
- (xliv) Supervisory asylum officers;
- (xlv) Supervisory special agents;
- (xlvi) Director of investigations;
- (xlvii) Directors or officers in charge of detention facilities;
- (xlviii) Directors of field operations;
- (xlix) Deputy or assistant directors of field operations;
- (l) Unit Chief, Law Enforcement Support Center;
- (li) Section Chief, Law Enforcement Support Center;
- (lii) Immigration Enforcement Agents; or

(liii) Other duly authorized officers or employees of the Department of Homeland Security or the United States who are delegated the authority as provided in 8 CFR 2.1 to issue warrants of arrest, and who have successfully completed any required immigration law enforcement training.

(3) * * *

- (i) Border patrol agents;
- (ii) Air and marine agents;
- (iii) Special agents;
- (iv) Deportation officers;
- (v) Detention enforcement officers or immigration enforcement agents

(warrants of arrest for administrative immigration violations only);

- (vi) CBP officers;

(vii) Supervisory and managerial personnel who are responsible for supervising the activities of those officers listed in this paragraph; and

(viii) Immigration officers who need the authority to execute arrest warrants for immigration violations under section 287(a) of the Act in order to effectively accomplish their individual missions and who are designated, individually or as a class, by the Commissioner of CBP or the Assistant Secretary/Director of ICE.

(4) * * *

(i) Border patrol agents;

(ii) Air and marine agents;

(iii) CBP officers

(iv) Special agents;

(v) Deportation officers;

(vi) Immigration enforcement agents;

(vii) Supervisory and managerial personnel who are responsible for supervising the activities of those officers listed in this paragraph; and

(viii) Immigration officers who need the authority to execute warrants of arrest for non-immigration violations under section 287(a) of the Act in order to effectively accomplish their individual missions and who are designated, individually or as a class, by the Commissioner of CBP or the Assistant Secretary/Director of ICE.

(f) * * *

(1) Border patrol agents;

(2) Air and marine agents;

(3) Special agents;

- (4) Deportation officers;
- (5) Detention enforcement officers or immigration enforcement agents;
- (6) CBP officers;
- (7) Supervisory and managerial personnel who are responsible for supervising the activities of those officers listed in this paragraph; and
- (8) Immigration officers who need the authority to carry firearms under section 287(a) of the Act in order to effectively accomplish their individual missions and who are designated, individually or as a class, by the Commissioner of CBP or the Assistant Secretary/Director of ICE.

13. Amend § 287.8 by:

- a. Revising paragraphs (a)(1)(iv)(A) through (H);
- b. Revising paragraphs (a)(2)(iii)(A) through (H);
- c. Revising paragraph (c)(1);
- d. Revising paragraphs (e)(2)(i) through (iii); and
- e. Adding paragraphs (e)(2)(iv) through (v).

The revisions and additions read as follows:

§ 287.8 Standards for enforcement activities.

* * * * *

(a) * * *

(1) * * *

(iv) * * *

(A) Border patrol agents;

(B) Air and marine agents;

(C) Special agents;

(D) Deportation officers;

(E) Detention enforcement officers or immigration enforcement agents;

(F) CBP officers;

(G) Supervisory and managerial personnel who are responsible for supervising the activities of those officers listed in this paragraph; and

(H) Immigration officers who need the authority to use non-deadly force under section 287(a) of the Act in order to effectively accomplish their individual missions and who are designated, individually or as a class, by the Commissioner of CBP or the Assistant Secretary/Director of ICE.

(2) * * *

(iii) * * *

(A) Border patrol agents;

(B) Air and marine agents;

(C) Special agents

(D) Deportation officers;

(E) Detention enforcement officers or immigration enforcement agents;

(F) CBP officers;

(G) Supervisory and managerial personnel who are responsible for supervising the activities of those officers listed above; and

(H) Immigration officers who need the authority to use deadly force under section 287(a) of the Act in order to effectively accomplish their individual missions and who are designated, individually or as a class, by the Commissioner of CBP or the Assistant Secretary/Director of ICE.

* * * *

(c) Conduct of arrests — (1) Authority. Only designated immigration officers are authorized to make an arrest. The list of designated immigration officers may vary depending on the type of arrest as listed in § 287.5(c)(1) through (c)(5).

* * * *

(e) * *

(2) * *

(i) Border patrol agents;

(ii) Air and marine agents;

(iii) CBP officers;

(iv) Supervisory personnel who are responsible for supervising the activities of those officers listed in this paragraph; and

(v) Immigration officers who need the authority to initiate a vehicular pursuit in order to effectively accomplish their individual mission and who are designated, individually or as a class, by the Commissioner of CBP or the Assistant Secretary/Director of ICE.

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DATE: August 30, 2016

Jeh Charles Johnson,
Secretary

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